

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ATMOS)	CASE NO.
ENERGY CORPORATION FOR AN)	2021-00214
ADJUSTMENT OF RATES)	

ORDER

On September 16, 2021, Atmos Energy Corporation (Atmos) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment indefinitely for Atmos' attachments to its responses to the Commission Staff's Third Request for Information (Staff's Third Request) Item No. 2 and the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention's (Attorney General) Second Request for Information (Attorney General's Second Request) Items No. 15 and 24.

In support of its motion, Atmos argued that Attachment 1 to its response to Staff's Third Request Item No. 2 and Attachment 1 to its response to Attorney General's Second Request Item No. 24 consist of sensitive, internal, strategic information that has not been finalized and has not been publicly disclosed regarding potential future changes to the company's capital structure and should be granted confidential treatment pursuant to KRS 61.878(1)(c).¹ Atmos asserted that the Commission has consistently recognized that such internal strategic planning information and related materials are entitled to confidential treatment as this information typically relates to the company's economic

¹ *Hoy v. Kentucky Indus. Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995); *Marina Management Servs. v. Cabinet for Tourism, Dep't of Parks*, 906 S.W.2d 318, 319 (Ky. 1995).

status and business strategies and constitutes information that is “generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records” pursuant to KRS 61.878(1)(c)(1).

Atmos also seeks confidential treatment for Attachment 1 to its response to Staff’s Third Request Item No. 15, which indicates how the company acquires gas, determines pricing when acquired, and determines cost. Atmos argued that this information includes planning and strategic information such as contract, location, and volume data and should be protected by KRS 61.878(1)(c)(1) as “generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

Having considered the motion and the material at issue, the Commission finds that Attachment 1 to Atmos’ response to Staff’s Third Request Item No. 2, Attachment 1 to Atmos’ response to Attorney General’s Second Request Item No. 15, and Attachment 1 to Atmos’ response to Attorney General’s Second Request Item No. 24 constitute information that is generally recognized as confidential or proprietary and if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

Disclosure of business planning and economic insights into the inner workings of Atmos included in Attachment 1 to Atmos’ response to Staff’s Third Request Item No. 2 and Attachment 1 to Atmos’ response to Attorney General’s Second Request Item No. 24 could result in competitor commercial advantage. The Commission previously granted

confidential treatment to strategic business plans.² In addition, this information represents preliminary drafts and potential strategies under KRS 61.878(1)(i) and (1)(j) and could allow information that is not final and expresses opinions to become public. The designated material therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1), (1)(i), and (1)(j).

Information about how Atmos obtains gas, including pricing, provided in Attachment 1 to Atmos' response to Attorney General's Second Request Item No. 15 is also generally recognized as confidential or proprietary and if openly disclosed would permit an unfair commercial advantage to Atmos' competitors. The Commission previously held confidential all data containing pricing information for an indefinite period pursuant to KRS 61.878(1)(c)(1).³ The designated material therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Atmos' motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.

² Case No. 2016-00370, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates and for Certificates of Public Convenience and Necessity*, (Ky. PSC Dec. 12, 2018), Order at 3, 5.

³ Case No. 2016-00200, *Purchased Gas Adjustment Filing of Valley Gas, Inc.*, (Ky. PSC July 27, 2017), Order at 2–3.

3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. Atmos shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Atmos shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Atmos is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Atmos to seek a remedy afforded by law.

By the Commission

ENTERED
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2021-00214

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